

BEFORE THE THREE MEMBER DUE-PROCESS PANEL  
PURSUANT TO RSMO. *Sect.* 162.961

Petitioner, )  
vs. )  
ST. LOUIS PUBLIC SCHOOLS, )  
Respondent. )

**MEMORANDUM OPINION AND ORDER**

The Chairperson received Respondent’s motion to dismiss complaint for due process on or about April 11, 2005. The motion is based upon “information and belief” that Petitioner last attended the Respondent School District on February 11, 2005; that parent and student ceased to be residents of the Respondent School District on or before February 1, 2005 and that parent and student “presently reside and are domiciled within the Parkway School District.” The motion further alleges that “student is currently enrolled as a student at Parkway Northeast Middle School in the Parkway School District.”

On April 13, 2005 the Chairperson issued a memorandum to the parties that the motion to dismiss was insufficient based upon “information and belief,” but that the Respondent would be permitted to amend its motion in order to submit appropriate affidavits to establish when the student last attended the Respondent School District and when he became domiciled and enrolled in the new school district. In that memorandum order the parent was given the opportunity to submit a letter addressed to the Chairperson in response to the motion.

On or about April 25, 2005 Respondent submitted its amended motion to dismiss with affidavits attached. Affidavit “A” is the affidavit of Brenda Smith, Principal of McKinley CJA in the St. Louis Public School system. Her affidavit states that the last date that Petitioner attended McKinley CJA was February 11, 2005. Respondent also attaches the affidavit of Jane Liddy, the Custodian of Records for Special School District

of St. Louis County, affidavit “B.” The affidavit identifies attendance records of the Special School District and Parkway School District. The attendance record of the Special School District indicates that as of February 14, 2005 the student (Petitioner, herein) had transferred from McKinley. The attendance record of Parkway indicates that Petitioner was enrolled in Parkway Northeast Middle School and resides at , Missouri as of February 14, 2005.

The affidavit of Jane Liddy and the student records of the Special School District and the Parkway School District and the affidavit of Brenda C. Smith establish that the student ceased attending school in the Respondent School District as of February 11, 2005 and was domiciled in St. Louis County and his new School District as of February 14, 2005. The parent of Petitioner has not filed anything with the Chairperson in response to Respondent’s motion. Petitioner filed his request for a due process hearing on or about February 14, 2005.

The case of Thompson vs. Board of the Special School District No. 1, 144 F.3d 574, 578-79 (8<sup>th</sup> Cir. 1998) holds that under IDEA if a student changes school districts and does not request a due process hearing until after he leaves the District previously responsible for his education, his right to challenge prior educational services is not preserved. Subsequent challenges to the student’s previous education become moot because the new school district is responsible for providing a due process hearing.

Accordingly, the Chairperson grants the Respondent’s motion, and it is ordered that Petitioner’s request for a due process hearing is dismissed with prejudice.

So ordered this 30<sup>th</sup> day of April, 2005.

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George J. Bude  
Chairperson

cc: Ms.  
Margaret M. Mooney, Esq.  
Mr. Harry Bahr, Panel Member  
Ms. Sue Dame, Panel Member